

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on March 26, 2001 at
3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 315, SB 461, SB 473, SB 454
SB 466, 3/22/2001
Executive Action: SB 329, SB 420, SB 477, SB
248, SB 454, SB 473, SB 315,
SB 461, SB 466

EXECUTIVE ACTION ON SB 329

Motion/Vote: REP. LEE moved that SB 329 BE CONCURRED IN. Motion carried unanimously. {Tape : 1; Side : A; Approx. Time Counter : 0; Comments : This motion was not recorded on the tape.}

HEARING ON SB 315

Sponsor: Sen. Eve Franklin, SD 21

Proponents: Aden Myhre, MT Comp. Health Assn.
Chuck Butler, Blue Cross/Blue Shield
Claudia Clifford, MT Insurance Commissioner
Mary Allen, MT Benefit and Life Company
Jani McCall, Billings Deaconess Clinic
John Flink, MT Hospital Assn.
Sharon Hoff- MT Catholic Council
Ed Eaton, AARP
Tara Madigan, citizen
Al Pontrelli, MT Investor and Financial Advisors
Mary Taffero, WEEL
Sami Butler, MT Nurses Assn.

Opponents: None

Opening Statement by Sponsor: Sen. Franklin, SD 21. The Montana Comprehensive Health Assn. was started in the 1980s. This program was designed to insure people who were uninsurable. A group of large insurance carriers were assessed one percent of all insurance premiums sold in Montana. This money was then pooled and used to fund MCHA. The criteria to buy insurance through this program was a person had to be turned down by two private carriers. This was a high risk program and the premiums were expensive. In the 1990's, the Kennedy-Kassebaum legislation required us to provide an avenue for portability. This legislation was to allow a person to move his insurance as he changed job, etc. The MCHA is administratively attached to the State Auditor's Office and controlled by a self-regulating Board. The Board makes all the management decisions for MCHA. There was concern last session that the growth of the program would cause MCHA to become insolvent. The 1999 legislature, out of the tobacco funds, authorized two million dollars for MCHA. They have not needed to use this money during the past two years, but would like to keep the two million to help fund MCHA the next two years. This bill would allow them to keep this money.{Tape : 1; Side : A; Approx. Time Counter : 0 - 12.1}

Proponents' Testimony: Aden Myhre, MCHA. The MCHA worked closely with the Auditors office to design this bill. The MCHA is a great example of a private-public cooperation. I am passing out brochures that have the rates on the back. **EXHIBIT(huh68a01)**

EXHIBIT(huh68a02){Tape : 1; Side : A; Approx. Time Counter : 12.1 - 17.4}

Chuck Butler, Blue Cross/Blue Shield. Today I am representing the MHCA Board of Directors. We are in support of this bill. Twenty percent of Montanans are uninsured because they can not afford the cost. The piece of legislation will help give more Montanans insurance.{Tape : 1; Side : A; Approx. Time Counter : 17.4 - 19.2}

Claudia Clifford, State Auditors Office, Insurance Commissioner. This bill is the result of a study that was done by the DPPHS, MCHA and the Insurance Commissioners Office. This bill is permissive and does not fund the program, but it gives MCHA an option.
EXHIBIT(huh68a03){Tape : 1; Side : A; Approx. Time Counter : 19.2 - 21.8}

Mary Allen, MT Benefit and Life Companies. We support this bill.{Tape : 1; Side : A; Approx. Time Counter : 21.8 - 22.1}

Jani McCall, Billings Deaconess Clinic. BDC is in support this bill as one of our major priorities is to seek coverage for uninsurable Montanans. I am a high risk individual who has experienced the problems of trying to afford insurance. **EXHIBIT**(huh68a04){Tape : 1; Side : A; Approx. Time Counter : 22.1 - 23.6}

John Flink, MT Hospital Assn. We support SB 315. We have been an advocate of the MCHA program which softens the amount that hospitals have to charge off. {Tape : 1; Side : A; Approx. Time Counter : 23.6 - 24.7}

Sharon Hoff, MT Catholic Society. I hear from lots of Montanans and have heard that health care is one of their main concerns. One lady asked by about getting health coverage. She had developed breast cancer and had a double mastectomy and while she was in the hospital her husband had a heart attack that required by pass surgery. He had been working and had to quit. They were forced to file bankruptcy on over \$64,000.00 of medical bills. These are the types of people who need this insurance. {Tape : 1; Side : A; Approx. Time Counter : 24.7 - 26.8}

Ed Eaton, AARP. We support this bill. {Tape : 1; Side : A; Approx. Time Counter : 26.8 - 27.5}

Tara Madigan, private citizen. Her son was diagnosed at three years of age with diabetes. He did received medicaid, but because I have worked the past year and one-half I no longer qualify for medicaid. We desperately need insurance for Chris. {Tape : 1; Side : A; Approx. Time Counter : 27.5 - 28.6}

Al Pontrelli, MT Insurance and Investment Advisors. We support this bill. {Tape : 1; Side : A; Approx. Time Counter : 28.6 - 29.1}

Mary Taffero, WEEL. I am here to represent a brain tumor patient who cannot afford care and insurance. We support this bill. {Tape : 1; Side : A; Approx. Time Counter : 29.1 - 29.6}

Sami Butler, MT Nurses Assn. We support this bill. {Tape : 1; Side : A; Approx. Time Counter : 29.6 - 30.4}

Opponents' Testimony: None

Questions from Committee Members and Responses: Rep. Esp: Sen. Franklin, is this money in the governors budget. Sen. Franklin: Not at this time.

Rep. Brown: Sen. Franklin, you are asking us to pass this bill assuming that it will get in House Bill No. 2? **Sen. Franklin:** we are asking the policy decision be passed, obviously if the money is not there it won't happen. **Rep. Brown:** Would you object to a contingent clause in this bill? **Sen. Franklin:** I would like to talk to the MCHA folks and see where they are at this time. {Tape : 1; Side : B; Approx. Time Counter : 0 - 2.2}

Closing by Sponsor: Sen. Franklin closed SB 315. {Tape : 1; Side : B; Approx. Time Counter : 2.2 - 6.7}

HEARING ON SB 461

Sponsor: Sen. Franklin, SD 21

Proponents: Mary Goethle, private citizen

Opponents: Jerry Loendorf, MT Medical Association
Larry McEvoy, Physician

Opening Statement by Sponsor: Sen. Franklin, SB 461. This is a constituent bill, that deals with total disclosure, by the physician, to the patient who is having a hysterectomy. This bill also requires a written informed consent. {Tape : 1; Side : B; Approx. Time Counter : 6.7 - 9.8}

Proponents' Testimony: Mary Goethle, Great Falls Montana patient. Ms. Goethle had a hysterectomy and feels that she was not informed adequately. She did not understand the after effects, what was being removed or the emotional trauma. {Tape : 1; Side : B; Approx. Time Counter : 9.8 - 14.6}

Opponents' Testimony: Lawrence McEvoy, Physician. I am a doctor with a speciality of internal medicine. I am Pres of MT State Board of Medical Examiners. We oppose this legislation, as the question of informed consent is already in law and we do not need duplication. {Tape : 1; Side : B; Approx. Time Counter : 14.6 - 19.6}

Jerry Loendorf, MT Medical Assn. We wish to oppose this bill. {Tape : 1; Side : B; Approx. Time Counter : 19.6 - 23.1}

Questions from Committee Members and Responses: Rep. Facey: Dr. McEvoy, do you know if any other states have informed consent for this specific surgery? Dr. McEvoy: I do not know. Rep. Facey: Ms. Goethle, the same question. Ms. Goethle: I am aware that New York, Texas and California have informed written consent.

Rep. Shockley: Sen. Franklin, what was the reason behind this, an incident? Sen. Franklin: It is a constituent request. {Tape : 1; Side : B; Approx. Time Counter : 20.5 - 24.7}

Closing by Sponsor: Senator Franklin closed. Thank you for your attention to this issue. Dr. McMahon asked the Senate to amend this bill, which they did. {Tape : 1; Side : B; Approx. Time Counter : 24.7 - 27.5}

HEARING ON SB 473

Sponsor: Sen. Waterman, SD 26

Proponents: Gene Haire, Board of Visitors
Dr. Gary Mihelish, Alliance for Mentally Ill
Colleen Murphy, Natl Assn. Of Social Workers
Bonnie Adee, Mental Health Ombudsmen

Opponents: None

Opening Statement by Sponsor: Sen. Waterman introduced SB 473. This bill makes revisions to the Board of Visitors statutes. It expands the number of board members from five to six members, defines the criteria for the members, and sets two year staggered terms. It outlines the responsibilities of the board to inspect mental health facilities, it requires that facilities respond to the Board of Visitors recommendations and requires notification of public meetings. EXHIBIT (huh68a05) EXHIBIT (huh68a06) {Tape : 1; Side : B; Approx. Time Counter : 27.5 - 30} {Tape : 2; Side : A; Approx. Time Counter : 0 - 0.2}

Proponents' Testimony: Gene Haire, Board of Visitor member. The Board of Visitors is a small state agency administratively attached to the Governor's office. The mandates are 53-20 and 53-21 of the MCA. Our duties are on-site reviews of mental health facilities and to work with consumers to resolve disagreements with these types of facilities. Mr. Harrah explained the contents of the bill and the reasons for these changes. {Tape : 2; Side : A; Approx. Time Counter : 0.1 - 7.1}

Dr. Gary Mihelish, Pres of the National Alliance for the Mentally Ill for the State of Montana. We support this bill. {Tape : 2; Side : A; Approx. Time Counter : 7.1 - 7.3}

Colleen Murhpy, Ex. Dir. Of MT Chap. Natl Assoc. of Social Workers We want to go on the record in support of this bill. One of our members served on this board for a number of years and feels this board is very efficient and needed. {Tape : 2; Side : A; Approx. Time Counter : 7.3 - 7.9}

Bonnie Adee, Mental Health Ombudsmen, State of Montana. Our office is located next to this board. {Tape : 2; Side : A; Approx. Time Counter : 7.9 - 8.6}

Opponents' Testimony: None.

Questions from Committee Members and Responses: Rep. Esp: Mr. Haire, I have a question about the Board of Visitors and how it interacts with the State hospital. In a community setting there is a board that hires an administrator, then have monthly meetings to administer the agency. Is this the function of the Board of Visitors? **Mr. Haire:** The Board consists of five members appointed by governor. The Board is responsible for hiring the staff, which includes myself and three other staff members. Our by-laws require one meeting a year. **Rep. Esp:** As you oversee the daily operations of a facility, who has direct oversight? **Mr. Haire:** You are referring to the State Hospital? The Board is required by state law to employ a full time attorney and other staff. There are some duties to represent patients, medicaid patients, etc. We do not provide direct oversight. **Rep. Esp:** Who would be in charge of staff recruitment and peer review at the State hospital? **Mr. Haire:** The administrator of the medical services is the director.

Rep. Rice: Dr. Mihelish, Page two, lines one through 4 describes the new person guidelines? Explain, why are consumers included in this and what benefit are they to the board? **Dr. Mihelish:** The consumers have been disappointed and feel they have been excluded from the system. They need to be represented.

Rep. Brown: Dr. Harr, are you familiar with this bill. What is your position on this bill. **Dr. Harr;** I am interested in this bill and do support it. The Board of Visitors have a valuable position and duties to carry out. **Rep. Brown;** Could you answer Rep. Rice question regarding having more consumers on this board. **Dr. Harr:** I think the consumer has been ignored for too long and there is a value in having a consumer on this board. {Tape : 2; Side : A; Approx. Time Counter : 8.6 - 20.9}

Closing by Sponsor: Sen. Waterman closed this bill with a short review of the proponents comments. {Tape : 2; Side : A; Approx. Time Counter : 20.9 - 21.5}

HEARING ON SB 454

Sponsor: Sen. Waterman, SD 26

Proponents: Dan Anderson, DPPHS

Jani McCall, MT Assn. Home Health Services Children.

Denise Griffith, Intermountain Childrens Home

Dr. Harr, psychologist

Ira Lourie, Med. Dir of "AWARE"

Jonette McFadden, Great Falls

Bonnie Adee, Ombudsman, Governors Office

Steve Yeakel, MT Council Maternal and Child Health

Mona Jamison, Shodair

John Wilkerson, CEO of Intermountain Childrens Home

Colleen Murphy, MT Chap. Social Workers

Robert Runkel, Office of Public Instruction

Sami Butler, MT Nurses Assn

Christie Blazer, Childrens Comprehensive Services

Mike Ferritter, Dept of Corrections

Al Davis, Mental Health Assn

Gene Haire, Board of Visitors

Opponents: None

Opening Statement by Sponsor: Sen. Waterman opens SB 454. This is an overview of the next two bills. These two bills deal with moving from a for-profit managed system that did not pay their bills two years to a system where the providers get paid, but we are losing 21 million dollars a biennium. We have many patients in high cost out of community treatment facilities. We should consider moving to a regional system and move the high cost individuals in state to save the money. We could use the savings to implement the regional system. **EXHIBIT (huh68a07)** {Tape : 2; Side : A; Approx. Time Counter : 21.5 - 29.1}

Proponents' Testimony: Dan Anderson, DPPHS. The challenge in providing services for the mentally ill in a community based system is complex. It involves several agencies: schools, protective services, juvenile corrections, local agencies. This bill calls for cooperation of these agencies. {Tape : 2; Side : A; Approx. Time Counter : 29.1 - 30} {Tape : 2; Side : B; Approx. Time Counter : 0 - 1.7}

Jani McCall, MT Assn. Home Health Services for Children. The providers I represent are in support of this bill. This bill deals with the high end kids, multi agency cooperation and community involvement. {Tape : 2; Side : B; Approx. Time Counter : 1.7 - 5.1}

Denise Griffith, Intermountain Children's Home. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 5.1 - 7.8}

Dr. Harr, psychologist. I support this bill. I represent the Montana Psychiatric Assn. and the Montana Medical Assn. {Tape : 2; Side : B; Approx. Time Counter : 7.8 - 9.1}

Ira Lourie, Med. Dir of "AWARE" and Human Services Collaborative; This is a necessary bill to control the costs and improve the care for the high cost kids. {Tape : 2; Side : B; Approx. Time Counter : 9.1 - 11.6}

Jonette McFadden, Great Falls resident, I support this bill. It is a concentrated effort to address the needs of the high cost youth care. {Tape : 2; Side : B; Approx. Time Counter : 11.6 - 12.4}

Steve Yeakel, MT Council for Maternal and Child Health. a.k.a. Montana Children's Alliance. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 12.4 - 14}

Mona Jamison, Shodair Childrens Hospital of Helena. We stand in support of this bill. {Tape : 2; Side : B; Approx. Time Counter : 14 - 16.1}

John Wilkerson, CEO of Intermountain Childrens Home and Services. We support this bill. **EXHIBIT**(huh68a08) {Tape : 2; Side : B; Approx. Time Counter : 16.1 - 17.6}

Colleen Murphy, Natl Assn of Social Workers. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 17.6 - 19.5}

Robert Runkel, Office of Public Instruction. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 19.5 - 19.8}

Sami Butler, MT Nurses Assn. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 19.8 - 20}

Christie Blazer, Childrens Comprehensive Services. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 20 - 20.6}

Mike Ferritter, Dept of Corrections. {Tape : 2; Side : B; Approx. Time Counter : 20.6 - 20.8}

Al Davis, Mental Health Assn. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 20.8 - 20.9}

Gene Haire, Board of Visitors. We support this bill. {Tape : 2; Side : B; Approx. Time Counter : 20.9 - 21.1}

Bonnie Adey, Ombudsman, Governors Office. We support the bill. {Tape : 2; Side : B; Approx. Time Counter : 21.1- 21.3}

Opponents' Testimony: None

Questions from Committee Members and Responses: Rep. Facey: Sen. Waterman, Page 3, section 3, states any health provider can participate in this authority. Is there any notice provision for the small players. Sen. Waterman: It is our intention that all providers be notified. The Dept. will do that and offer everyone a seat at the table.

Rep. Brown: Sen. Waterman, The fiscal note states technical concerns about coordination with Title 52, has that been resolved? **Sen. Waterman:** Yes, I think it has.

Rep. Rice: Sen. Waterman, Could you describe the top five clients on this list, what is the care they receive and seriousness of their illness? **Sen. Waterman:** These top three are in residential placements, they may be out of state in an intensive facility. They probably are a danger to themselves or others and been in the system for sometime. They are involved in several other systems. **Rep. Rice:** Is the costs here for more than mental health care? **Sen. Waterman,** No, this is just the mental health care costs. **Rep. Rice:** Dan Anderson, Same question. **Dan Anderson:** I think Sen Waterman gave a good answer. These are out of control children requiring 24 hour a day care. They probably have other problems, etc. {Tape : 2; Side : B; Approx. Time Counter : 22 - 30} {Tape : 3; Side : A; Approx. Time Counter : 0 - 0.2}

Closing by Sponsor: Sen. Waterman closed. {Tape : 3; Side : A; Approx. Time Counter : 0.2 - 0.4}

HEARING ON SB 466

Sponsor: Sen. Waterman, SD 26

Proponents: Dr. Gary Mihelish, Natl Assn for Mentally Ill
Gene Haire, Board of Visitors
Don Anderson, DPPHS
Jerry Marble, Missoula Citizen

Opponents: Bernadette Franks-Ongoy, Advocacy Program
Colleen Murphy, MT Society of Social Workers
Chris Marsh, Western Montana Mental Health Center

Opening Statement by Sponsor: Sen. Waterman, this is a very important piece of legislation that deals with extended community involuntary commitments and is a highly controversial. I am passing out several articles that describe assisted out patient treatment. Admissions to hospital decreased and length decreased. This bill deals with adults in the system. People who have serious long term mental illness, in and out of hospitals on several occasions. Individuals must receive treatment long enough to become stable and there must be a consequence for not following the treatment plan.
EXHIBIT (huh68a09) EXHIBIT (huh68a10) EXHIBIT (huh68a11) EXHIBIT (huh68a12) {Tape : 3; Side : A; Approx. Time Counter : 0.4 - 10.2}

Proponents' Testimony: Dr. Gary Mihelish, Natl Alliance for the Mentally Ill. We are a large organization of mentally ill patients and their family members. We believe that all patients should make their own decisions regarding treatment, however there are some who are to sick to make these decisions. Out patient treatment would be less expensive, closer to home and allow family members to be involved. This assisted outpatient treatment is better than homelessness, premature death, or incarceration. **{Tape : 3; Side : A; Approx. Time Counter : 10.2 - 17}**

Dan Anderson, DPPHS, We support this bill and agree with the previous testimony. **{Tape : 3; Side : A; Approx. Time Counter : 17 - 17.1}**

Gene Haire, Mental Disabilities Board of Visitors: This bill will help with involuntary commitment. **{Tape : 3; Side : A; Approx. Time Counter : 17.1 - 17.4}**

Jerry Marble, Missoula Citizen. I support this bill because my wife committed suicide and I was unable to help her and found it almost impossible to commit her. This was her fourth attempt and I could not get her committed. This bill adds more leverage in

getting help with suicidal patients. **{Tape : 3; Side : A; Approx. Time Counter : 17.4 - 20.6}**

Opponents' Testimony: Bernadette Franks-Ongoy, Ex. Director of the Montana Advocacy Program. We oppose this bill, I have a chart that shows the present commitment laws that I believe are adequate. I understand, the need to do something for people to get mental health treatment. However, I understand the constitutional rights of citizens. We do not need this bill. **{Tape : 3; Side : A; Approx. Time Counter : 22.6 - 26.4}**

Colleen Murphy, Natl Assn of Social Workers. I represent the clinicians. We do not need this legislation. **{Tape : 3; Side : A; Approx. Time Counter : 26.4 - 30}** **{Tape : 3; Side : B; Approx. Time Counter : 0 - 2.4}**

Chris Marsh, Western Montana Mental Health Center. We support this legislation. **EXHIBIT(huh68a13){Tape : 3; Side : B; Approx. Time Counter : 2.4 - 3}**

Questions from Committee Members and Responses: Rep. Newman; Sen. Waterman, Page 2, line 8, a person must have two other civil commitments. How is a prosecutor to know about these previous commitments, as all commitments are confidential? **Sen. Waterman,** I think you probably would not know, unless the provider supplied that information. This is a narrow scope of people. **Rep. Newman:** Don't our commitment laws allow this type of procedure? **Sen. Waterman:** Yes, you can. This is for a very specific population. The 3 month threshold is very frustrating to law enforcement. **Rep. Newman:** The law already allows an extension of the 3 months? **Sen. Waterman:** Yes. **Rep. Newman:** In cases of commitment to the State hospital can't we conditionally discharge the patients? **Sen. Waterman:** Yes, up to two years of time. **Rep. Newman:** One of the proponents indicated the legal hoops may be more restrictive than what we have now. **Sen. Waterman:** I don't believe so.

Rep. Noennig: Sen. Waterman, Section 3 on page 3 has some strange things that I don't understand. Reference to a directive, etc. Is that a mistake or is it intentional. Please explain. **Sen. Waterman,** that refers to a bill Esp is carrying and if it passes these two bills can be combined or at least non conflicting. **Rep. Noennig:** I disagree with the parties named that can make the decision for commitment. I do not believe that Power of Attorney will allow this. **Sen. Waterman:** I think there is a Power of Attorney that allows this. **Rep. Noennig:** I do not agree with the persons listed and will oppose some of these from making decisions on healthcare.

Rep. Facey: Sen. Waterman, did you look at the Montana ethics that was passed out. MT law already have these powers? **Sen. Waterman:** This bill would make the courts act on these cases and the DPPHS would be mandated to fund the program. {Tape : 3; Side : B; Approx. Time Counter : 3 - 17.4}

Closing by Sponsor: Sen. Waterman closed SB 466. She gave a general wrap up of the discussion. {Tape : 3; Side : B; Approx. Time Counter : 17.4 - 22.1}

EXECUTIVE ACTION ON SB 420

Motion: REP. LEE moved that SB 420 BE CONCURRED IN.

Discussion: Rep. Lee is concerned if there is anything in the bill that calls for action after this bill is passed.

Motion/Vote: REP. LEE moved that SB 420 BE CONCURRED IN. Motion carried unanimously. Rep. Facey to carry on house floor. {Tape : 3; Side : B; Approx. Time Counter : 22.1 - 26.9}

EXECUTIVE ACTION ON SB 477

Motion: REP. ESP moved that SB 477 BE CONCURRED IN. EXHIBIT(huh68a14) EXHIBIT(huh68a15) EXHIBIT(huh68a16) {Tape : 3; Side : B; Approx. Time Counter : 26.9 - 30}

Motion: REP. ESP moved that SB 477 BE AMENDED.

Discussion: Staffer Ness: This amendment adds APRN's to list of persons who can order the use of the safety device. **Rep. Noennig:** We had a sub-committee meeting on this bill this morning, we did not discuss this amendment. We are worried about the federal regulations and this bill having a conflict with federal regulations. Does the federal reference to physician include or exclude APRNs. **Ness:** I don't know. **Rep. Jent:** What about PA and Nurse Practitioners? Guess, I don't know the answers either. **Rep. Shockley:** If we don't know what the law is, lets don't mess with this, I recommend we vote no on this amendment. **Rep. Raser:** I think that to the extend allowed by law, APRN's should be allowed to make these decisions. If this is a problem we need to look at it. I think we should vote for the amendment. **Rep. Lee:** Could we put it in there so it is other medical professionals? **Rep. Shockley:** It is late and we should not pass laws that we do not know what they mean. We are saying if it is okay with federal government, it is okay with us. If we don't know-we should not pass the law. **Rep. Schrump:** Can we ask Rose Hughes? **Rose Hughes,** the nursing association asked us and we felt it was an appropriate

amendment. There are federal statutes give APRN and NP the ability to step in for doctors. We do not have an answer as to the restraints. **Rep. Facey:** I think the reason they are asking for this is because there are facilities in Montana that do not have a physician available twenty four hours a day. Many time the APRNs are running the nursing homes.

Motion/Vote: REP. ESP moved that **SB 477 BE AMENDED. Motion carried 13-5 with Himmelberger, Jent, Ripley, Shockley, and Whitaker voting no.**

Motion: REP. NOENNIG moved that **SB 477 BE AMENDED.** SB 47702

Discussion: Rep. Noennig: In the meeting we discussed the legality of this amendment. 1. A federal law may expressly exempt a state law. 2. Congress may have intended that federal law occupy the entire legal field in the area. 3. State law may conflict with federal law. The portion of federal law that is asserted to be meeting the preemption requirements is the right to be free.....restraints may only be imposed to insure the physical safety of the residents and upon written orders of a physician...There are a number of fed regulations that may mean that the federal government has occupied the field. Mr. Brown says this is not true. There are two states that have adopted laws like this and they have not been challenged. Rep. Jent: The record will reflect that we have done our research, considered it and decided the problem of preemption was not enough to have us not pass the bill. We have done the best we can within the time frame.

Rep. Noennig: This amendment deals with who can act on behalf of the patient. There are several persons named in the current bill that I do not think can act for the resident. This keeps the resident that right, this limits competency to a physicians decision. Deletes the phrase "conservator, or" as conservator does financial, deletes either generally or power of attorney.

Motion/Vote: REP. NOENNIG moved that **SB 477 BE AMENDED. Motion carried 17-0.** Rep. Brown excused and not voting.

Motion: REP. NOENNIG moved that **SB 477 BE AMENDED.** SB47701.

Discussion: This gives the department rule making authority and make a definition of facility as it applies to this bill. **Rep. Noennig:** This deletes personal care and nursing services. I have issue with rule making authority, I think the only portion Page 2, line 9 would need rule making. I want rule making authority to be definitely restrictive. They already have rule making authority in other statutes.

Motion/Vote: REP. NOENNIG moved that SB 477 BE AMENDED. Motion carried 17-0. Rep. Brown excused and not voting.

Motion: REP. ESP moved that SB 477 BE AMENDED. (Conceptual)

Discussion: Rep. Esp: This amendment on page 2, lines 21 and 22, change to say "you still have to have a physician written order to use restraints." Rep. Newman: Esp, if that is your intent, why don't you simply strike lines 21 and 22. Rep. Esp: I read that you would have to have signed consent. That is an option. Rep. Jent: I don't think we want to do this, we are making an amendment that refers to different sections, maybe we should think about this one, as it appears to be surplusage. Rep. Newman: A drafting matter, I don't think you want to use except as or use requirement twice meaning two different things. Rep. Noennig: Esp, is saying if there is an assisted device and does not restrict movement, the current law exempts that from a doctors order.

Motion/Vote: REP. ESP moved that SB 477 BE AMENDED. Motion failed 8-10 with Esp, Fuchs, Himmelberger, Newman, Noennig, and Whitaker, Ripley, Rice and Shockley voting aye.

Motion/Vote: REP. NOENNIG moved that SB 477 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Esp voting no. Rep. Raser to carry on house floor. {Tape : 4; Side : A; Approx. Time Counter : 0 - 30} {Tape : 4; Side : B; Approx. Time Counter : 0 - 8.2}

EXECUTIVE ACTION ON SB 248

Motion/Vote: REP. NEWMAN moved that SB 248 BE CONCURRED IN. Motion carried 15-3 with Jent, Shockley, and Whitaker voting no.

Discussions: Rep. Newman: Rep. Jent and I inquired why the proponents wanted to make changes on Page 3, line 10. The health care professionals have convinced me that there is really no public policy behind these peer review committees and the reason why the material discussed should remain confidential. Open discussion would restrict the topics discussed and expose the medical community to lawsuits and not correcting the problems. Rep. Lee: Are there amendments to be handed out? Rep. Brown: These amendments were forwarded by the Montana Trial Lawyers Assn, the proponents of the bill were very much against these amendments and unless someone wants to propose these amendments among the group the trial lawyers cannot propose amendments. I would not propose these amendments. There was a compromise in the bill where some reports were made discoverable, which were not available before. I favor the bill with no amendments. Rep. Raser: This bill will

harm more people than it will help. **Rep. Noennig:** Peer review is good thing, unfortunately the fear of admission of responsibility will give rise to legal action. This bill will allow physician to go ahead with peer review and does serve to protect the public. The doctors need to have the freedom to discuss problems that need to be fixed. **Rep. Jent:** the key words are admissible and discoverable. Admissible means it goes to the jury and discoverable it does not go to the jury. **Rep. Raser:** At school we tried various things for evaluation of staff. The confidential system worked best and people stopped talking when it was open discussion. I encourage this bill. **Rep. Raser** will carry this bill on the house floor. *{Tape : 4; Side : B; Approx. Time Counter : 8.2 - 21.5}*

EXECUTIVE ACTION ON SB 454

Motion/Vote: REP. SHOCKLEY moved that SB 454 BE CONCURRED IN. Motion carried unanimously. Rep. Lee will carry on the house floor. *{Tape : 4; Side : B; Approx. Time Counter : 21.5 - 25.2}*

Discussion: **Rep. Lee:** I think this is a good bill. **Rep. Ripley:** Would one of the lawyers explain the bill. **Rep. Newman:** I don't think there is a concern with conflicting with another bill. The legal staff can correct and combine like bills. **Rep. Brown:** I asked that question during the hearing and she said yes it had.

EXECUTIVE ACTION ON SB 473

Motion/Vote: REP. JENT moved that SB 473 BE CONCURRED IN.

Motion/Vote: REP. NOENNIG moved that SB 473 BE AMENDED. Motion carried unanimously.

Discussion: **Rep. Noennig:** These are technical amendments and does not change the context of the bill. **Rep. Jent:** This amendment address and corrects the definitions, I think we need this amendment.

Motion: REP. NOENNIG moved that SB 473 BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. RICE moved that SB 473 BE AMENDED. Motion failed 9-9 with Dell, Facey, Himmelberger, Jent, Noennig, Raser, Schmidt, Schrumpf, and Thomas voting no.

Discussion: **Rep. Rice:** This is a conceptual amendment on Page 1, line 18 to change it from 6 back to 5. On page 2, strike either subsection 4 or 5. We only need one consumer on the board. I

don't know which would be applicable. I will chose subsection 5 be deleted. **Rep. Raser:** What is this amendment doing? **Rep. Noennig:** Says that this amendment will only save the travel expenses of one person. This will not narrow the definition of mental illness. **Rep. Shockley:** I do not think we need to make this amendment. **Rep. Raser:** This is a mental disabilities bill, this does not talk about mental illness. **Rep. Brown:** If you change that to 5, they only have the criteria to 5 people only. **Rep. Rice:** I withdraw all of the amendment except changing the number of members from 6 to five.

Motion/Vote: REP. NOENNIG moved that SB 473 BE CONCURRED IN AS AMENDED. Motion carried unanimously. Rep. Jent Will carry this bill on the house floor. {Tape : 4; Side : B; Approx. Time Counter : 25.2 - 30} {Tape : 5; Side : A; Approx. Time Counter : 0 - 11.1}

EXECUTIVE ACTION ON SB 315

Motion: REP. JENT moved that SB 315 BE CONCURRED IN.

Discussion: Rep. Esp, what is this bill. **Rep. Raser:** This is good policy, we know that one of major problems is affordable health care for Montanans. **Rep. Shockley:** I suggest we pass this bill on to the floor and let the full house address the money issue. **Rep. Noennig:** I don't think is for low income people, it is for high risk medical needs. They are charged for this insurance and there is no assistance. Is the two million dollars a result of the sliding scale. **Rep. Shockley:** I don't have the answer, we either send it out of here or we don't. If Steve Vick says the money is there then ok, if not forget it. **Rep. Schmidt:** This money will let MCHA reduce premiums by using the sliding scale for low income people who qualify for this coverage and can not afford it.

Motion/Vote: REP. JENT moved that SB 473 BE CONCURRED IN. Motion carried 13-5 with Esp, Fuchs, Raser, Rice, and Ripley voting no. Rep. Lee to carry on the house floor. {Tape : 5; Side : A; Approx. Time Counter : 11.1 - 22.4}

EXECUTIVE ACTION ON SB 461

Motion: REP. RIPLEY moved that SB 461 BE CONCURRED IN.

Discussion: Rep. Newman, Informed consent is already the law and this proposal is unnecessary. If we do this it will set a precedence.

Substitute Motion/Vote: REP. ESP moved that SB 461 BE TABLED. Motion carried 17-1. Ripley voting no. {Tape : 5; Side : A; Approx. Time Counter : 22.4 - 24.6}

EXECUTIVE ACTION ON SB 466

Motion: REP. HIMMELBERGER moved that SB 466 BE CONCURRED IN.

Discussion: Rep. Esp: My concerns come from the family side and I think we need to have the ability to commit family members. If the current law address the medication and danger issues, maybe we don't need this bill, but if current law does not say this, then we need some portions of this bill. Families have to make the decision to take action and ask for commitment, etc. and usually it is unsuccessful. Rep. Newman: This bill is absolutely unnecessary, they can do everything this bill calls at this time. We now have the authority to extend a commitment longer than 90 days. Rep. Brown: Dr. Mihelish states the NAMI, a highly respected association, is in support of this bill. I am going to support this bill. Rep. Esp. shared the story of his family member and their need for this bill. The attorneys and judges used the law as it was in 1998 they were not using this section as Rep. Newman described. I don't know why but they did not and the family goes through a life of Hell and no one can help at this time. I am a family member and have lived through this scenario and it happens two or three times a year. Maybe education would help, but with no solution, you make a trip to the morgue and that is no fun. The quality of life would be improved if they had a longer 12 month commitment to stay on their meds and try to stay healthy. A better system is needed where the provider is responsible to intervene and monitor. Rep. Newman, I don't view this as a way of living and I live with a manic depressive Mother and see this all of the time. I don't want to fight about this and I realize Rep. Esp's feeling are real. This is an illness that affects my family, but these decisions are hard to make and hurt the family. The law already allows for intervention.

Motion/Vote: REP. NOENNIG moved that SB 466 BE AMENDED. Motion carried unanimously. This was a conceptual amendment. Motion carried unanimously.

Motion/Vote: REP. FACEY moved that SB 466 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Newman voting no. Rep. Esp to carry on the house floor. {Tape : 5; Side : A; Approx. Time Counter : 24.6 - 30} {Tape : 5; Side : B; Approx. Time Counter : 0 - 27.7}

ADJOURNMENT

Adjournment: 9:20 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO

EXHIBIT (huh68aad)